

Senate Bill No. 804

CHAPTER 298

An act to amend Sections 52122, 52122.5, 52123, 52124, and 52126 of, and to add Sections 52122.1 and 52124.5 to, the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 18, 1997. Filed with
Secretary of State August 18, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

SB 804, O'Connell. Education: class size reduction.

Existing law establishes the Class Size Reduction Program to provide funding to school districts to reduce class size in kindergarten and grades 1 to 3, inclusive, to not more than 20 pupils per certificated teacher. A school district establishing a class size reduction program with funds from the program is required to reduce class size at each schoolsite according to specified priorities.

Existing law establishes 2 options under which a school district may apply for Class Size Reduction Program funding. Under Option One, the Superintendent of Public Instruction is required to apportion to each applicant district an amount equal to \$650 per pupil enrolled in classes participating in the program, as specified, for class size reduction, provided the district certifies that it has met certain requirements. Under Option Two, the superintendent is required to apportion an amount equal to \$325 per pupil enrolled in each class that is reduced, as specified, for at least $\frac{1}{2}$ of the instructional minutes offered per day.

Existing law, for Option One, requires a school district to provide a reduced class size for all pupils in each classroom for the full regular schoolday, as specified, in each grade level for which funding is claimed.

Existing law, for Option One, permits a school district, as a part of the application for funding, to request that the State Board of Education grant the district a 2-year authorization to have a teacher-pupil ratio that averages 1 to 20, inclusive, whether or not each group of 20 pupils is enrolled in separate grades, as specified. Existing law prohibits the board from renewing or extending that authorization, as specified. Existing law authorizes the board to grant the authorization if, among other things, the district submits a plan demonstrating that it will fully meet the requirements pertaining to Option One.

Existing law requires a school district to apply for the Class Size Reduction Program for the 1997–98 school year, and any subsequent school year, by June 30 prior to the new school year.

This bill would change the amount the superintendent is required to apportion under Option One and Option Two to \$800 and \$400, respectively. The bill, for the 1997–98 school year, would permit funding for expanding or adding new classes in the Class Size Reduction Program after the beginning of the 1997–98 school year, as specified. The bill would state the intent of the Legislature that first priority for any funds appropriated for the Class Size Reduction Program in the 1997–98 Budget Act that are not expended for that program be made available, on a one-time basis, for specified class size reduction facilities purposes. The bill would permit Class Size Reduction Program funds to be used for facilities funding for class size reduction for new classes in the Class Size Reduction Program in the 1997–98 school year on a conditional grant basis, as specified.

This bill, for school years subsequent to the 1997–98 school year, would delete the authorization for exceptions to the teacher-pupil ratio. The bill would express the Legislature's intent that the next statewide general obligation bond for school facilities address the overall facilities needs for the Class Size Reduction Program, as specified.

This bill would authorize a school district to implement a program to reduce class size in 3 grade levels at a schoolsite that exclusively enrolls pupils in kindergarten and grades 1 and 2 and, in addition, reduce class size in grade 3 at a schoolsite that exclusively enrolls pupils in grades 3 to 5, inclusive, as specified. The provision would remain in effect until July 1, 1999, as specified.

This bill would require the Controller to develop appropriate instructions for the conduct of audits, as specified, for the purpose of determining the level of compliance with the Class Size Reduction Program.

This bill would change the application deadline for the 1997–98 school year and any subsequent school year to not later than 90 days after the annual Budget Act is chaptered, unless otherwise specified in regulations adopted by the State Board of Education. The bill would prohibit state agencies from reducing the apportionments made to a school district for either the Class Size Reduction Program or the Class Size Reduction Facilities Program during the 1996–97 or 1997–98 school year, if the only reason for the reduction is that an audit included a finding that the school district received Class Size Reduction Program incentive funding for one or more classes having an annual average daily class size, as defined, that was in excess of 20, as specified. The bill would also make conforming changes to related provisions of law.

This bill would declare that it is to take effect immediately as an urgency statute.



The people of the State of California do enact as follows:

SECTION 1. Section 52122 of the Education Code is amended to read:

52122. (a) Except as otherwise provided by Section 52123, any school district that maintains any kindergarten or any of grades 1 to 3, inclusive, may apply to the Superintendent of Public Instruction for an apportionment to implement a class size reduction program in that school district in kindergarten and any of the grades designated in this chapter.

(b) An application submitted pursuant to this chapter shall identify both of the following:

(1) Each class that will participate in the Class Size Reduction Program.

(2) For each class that will participate in the Class Size Reduction Program, whether that class will operate under Option One or Option Two:

(A) (i) Option One: A school district shall provide a reduced class size for all pupils in each classroom for the full regular schoolday in each grade level for which funding is claimed. For the purposes of this chapter, “full regular schoolday” means a substantial majority of the instructional minutes per day, but shall permit limited periods of time during which pupils are brought together for a particular phase of education in groups that are larger than 20 pupils per certificated teacher. It is the intent of the Legislature that those limited periods of time be kept to a minimum and that instruction in reading and mathematics not be delivered during those limited periods of time. For the purposes of this subparagraph, “class” shall be defined in the same manner as provided in the regulations adopted by the Superintendent of Public Instruction prior to July 1, 1996, pursuant to Sections 41376 and 41378 (subdivision (a) of Section 15103 of Title 5 of the California Code of Regulations).

(ii) The purpose of the Class Size Reduction Program is to ensure that children in public school in kindergarten and grades 1 to 3, inclusive, receive instruction in classrooms where there are not more than 20 students. In order to qualify for funding pursuant to this chapter, each class in the Class Size Reduction Program shall be maintained with an annual average class size of not more than 20 pupils for the instructional time which qualifies the class for funding pursuant to this chapter. Nothing in this chapter shall be construed to prohibit the class size from exceeding 20 students on any particular day, provided the average class size for the school year does not exceed 20.

(B) (i) Option Two: A school district shall provide a reduced class size for all pupils in each classroom for at least one-half of the instructional minutes offered per day in each grade level for which funding is claimed. School districts selecting this option shall

primarily devote those instructional minutes to the subject areas of reading and mathematics. For the purposes of this subparagraph, “class” shall be defined in the same manner as provided in the regulations adopted by the Superintendent of Public Instruction prior to July 1, 1996, pursuant to Sections 41376 and 41378 (subdivision (a) of Section 15103 of Title 5 of the California Code of Regulations).

(ii) The purpose of the Class Size Reduction Program is to ensure that children in public school in kindergarten and grades 1 to 3, inclusive, receive instruction in classrooms where there are not more than 20 students. In order to qualify for funding pursuant to this chapter, each class in the Class Size Reduction Program shall be maintained with an annual average class size of not more than 20 pupils for the instructional time which qualifies the class for funding pursuant to this chapter. Nothing in this chapter shall be construed to prohibit the class size from exceeding 20 students on any particular day, provided the average class size for the school year does not exceed 20.

(c) A school district that intends to implement a Class Size Reduction Program for the 1996–97 school year shall submit an application for funds pursuant to this chapter to the Superintendent of Public Instruction not later than November 1, 1996. To receive the total amount of funding in the 1996–97 school year for which the school district is eligible pursuant to Section 52126, a school district shall implement the Class Size Reduction Program by February 16, 1997, within the meaning of paragraph (2) of subdivision (b).

(d) A school district that intends to implement or continue to implement a Class Size Reduction Program for the 1997–98 school year and any subsequent school year shall submit an application for funding pursuant to this chapter to the Superintendent of Public Instruction not later than 90 days after the annual Budget Act is chaptered, unless otherwise specified in regulations adopted by the State Board of Education.

(e) For the 1997–98 school year, a school district that is either implementing or expanding a class size reduction program pursuant to this chapter may receive funding pursuant to this chapter even if the new classes for which funding is sought are not implemented at the beginning of the 1997–98 school year, provided that, for each new class in the Class Size Reduction Program, all of the following criteria are met:

(1) The teacher for each new class is hired and placed on the school district’s payroll by November 1, 1997.

(2) Each teacher for a new class has begun to receive the training required by this chapter on or before February 16, 1998.

(3) All other requirements of this chapter are satisfied by February 16, 1998, and continue to be satisfied for the remainder of the 1997–98 school year.

(f) For the 1997–98 school year, the number of new classes in the Class Size Reduction Program is the number of classes satisfying the requirements of this chapter minus the number of classes funded in the Class Size Reduction Program pursuant to this chapter in the 1996–97 school year.

(g) Any school district that chooses to reduce class size through the use of an early-late instructional program is ineligible to also use Section 46205, relating to the computation of instructional time for purposes of the Incentive for Longer Instructional Day and Year, in any grade level for which class size reduction funding is received pursuant to this chapter; provided, however, that any school district that operated under Section 46205 prior to July 1, 1996, may receive class size reduction funding pursuant to Option One in any grade level for which class size reduction funding would otherwise be received pursuant to Option One.

SEC. 2. Section 52122.1 is added to the Education Code, to read:

52122.1. (a) A school district applying to implement the Class Size Reduction Program in additional classes in the 1997–98 school year may request that a portion of the maximum operating funds for which the school district would be eligible if fully reducing class size in kindergarten and in grades 1 to 3, inclusive, pursuant to the provisions of subparagraph (A) of paragraph (2) of subdivision (b) of Section 52122, be used for facilities-related costs necessary for new classes established under this program beyond those established in the 1996–97 school year.

(b) An application made pursuant to this section, the form of which shall be developed by the Superintendent of Public Instruction not later than 30 days after the Budget Act of 1997 is chaptered, shall be submitted by each school district that elects to apply for funding under this section not later than 90 days after the Budget Act of 1997 is chaptered, and shall include certification by the governing board of the school district that, in the 1997–98 school year, the school district can show one of the following:

(1) In the 1996–97 fiscal year, the school district received funding for the Class Size Reduction Facilities Funding Program pursuant to Chapter 23 (commencing with Section 17770) of Part 10.

(2) The school district is qualified as of the date of the application for new construction funding under the Leroy F. Greene State School Building Lease-Purchase Law of 1976 (Chapter 12 (commencing with Section 17000) of Part 10) on a districtwide basis or for the relevant school attendance area, as defined in Section 17041.

(3) The school district has insufficient classroom space to house all the new classes that need to be established in order for the district to participate in the Class Size Reduction Program contained in Chapter 6.10 (commencing with Section 52120) of Part 28, as demonstrated through the eligibility calculation specified in Section

17773 that shall be certified by the governing board of the school district, adjusted to exclude new teaching stations established in the 1996–97 school year for this program.

(c) School districts requesting funds for facilities pursuant to this section are eligible to receive forty thousand dollars (\$40,000) for each new teaching station that is needed to be established for the purpose of expanding the Class Size Reduction Program in the 1997–98 school year beyond the number of new classes established in the 1996–97 school year pursuant to the provisions of subparagraph (A) of paragraph (2) of subdivision (b) of Section 52122.

(1) The maximum amount of funds a school district may receive for both operation funds, pursuant to subparagraphs (A) and (B) of paragraph (2) of subdivision (b) of Section 52122, and facility funds provided by this section, is limited to the number of students in kindergarten through grades 1 to 3, inclusive, multiplied by the Option One stipend specified in Section 52126.

(2) The maximum initial apportionment for facilities-related costs available to a school district under this section shall be calculated as follows:

(A) Multiply the district's certified enrollment in kindergarten and grades 1 to 3, inclusive, as of October of the previous school year by the per pupil stipend for the 1997–98 school year established in subdivision (a) of Section 52126.

(B) Subtract from the amount determined in subparagraph (A) the product of the number of pupils the district certifies will be in a class which satisfies the provisions of subparagraph (A) of paragraph (2) of subdivision (b) of Section 52122 during the 1997–98 school year times the per pupil stipend for the 1997–98 school year in subdivisions (a) and (c) of Section 52126.

(C) Subtract from the amount determined in subparagraph (B) the product of the number of pupils the district certifies will be in a class which satisfies the provisions of subparagraph (B) of paragraph (2) of subdivision (b) of Section 52122 during the 1997–98 school year times the per pupil stipend for the 1997–98 school year in subdivisions (b) and (d) of Section 52126.

(D) In no case shall a district receive facilities funding of more than forty thousand dollars (\$40,000) per new class that is needed to expand the Class Size Reduction Program during the 1997–98 school year.

(3) If, by June 30, 1998, or by a later date specified in a statute, the State Department of Education determines that the school district was eligible to receive facilities grants in excess of the number of facilities grants actually received in the 1997–98 school year, the department may award additional grants to the school district, to the extent that the funds are available for this purpose. To determine if funds are available to a school district for this purpose, the department shall use the calculations in subparagraphs (A) to (D),

inclusive, of paragraph (2), but adjusted for actual implementation of the Class Size Reduction Program and yearend enrollment.

(d) The funds allocated pursuant to this section shall be considered to be a loan to the school district receiving the funds. The following loan repayment provisions shall apply to all allocations made pursuant to this section:

(1) If the school district is eligible to receive grants pursuant to the provisions of subparagraph (A) of paragraph (2) of subdivision (b) of Section 52122 for the 1997–98 school year and has satisfied all requirements to receive these funds in the 1997–98 school year, for all classes for which it received facilities funding pursuant to this section, as determined by the State Department of Education, the school district shall not be required to repay the loan.

(2) If a school district receives funding pursuant to this section, but has not satisfied the requirements of paragraph (1) for all classes for which it received facilities funds, the Superintendent of Public Instruction shall notify the Controller and school district in writing, and the Controller shall deduct an amount equal to the portion of the total loan amount received by the school district under this subdivision for the classes that the school district failed to reduce the size to 20 or fewer pupils pursuant to the provisions of subparagraph (A) of paragraph (2) of subdivision (b) of Section 52122, from the school district's next principal apportionment or apportionments of state funds to the school district, other than basic aid apportionments required by Section 6 of Article IX of the California Constitution.

(e) Funds allocated to school districts pursuant to this section shall be expended solely for the purpose of facilities-related costs associated with the implementation of the Class Size Reduction Program contained in this chapter.

(f) Funds shall not be allocated to school districts pursuant to this section for the purpose of assisting school districts in implementing Option Two, as set forth in paragraph (2) of subdivision (b) of Section 52122.

(g) Nothing in this section shall be construed as precluding school districts from fully implementing class size reduction in kindergarten and grades 1 to 3, inclusive.

(h) It is the intent of the Legislature that, for each new teaching station a school district establishes for the purpose of class size reduction for which the school district did not receive a facilities grant under this section or any previous appropriation for this purpose, the school district shall be eligible for facilities funding from any state general obligation bond measure approved for that purpose.

(i) For purposes of this section, any reference to school districts shall be deemed to include any charter school.

SEC. 3. Section 52122.5 of the Education Code is amended to read:

52122.5. (a) A school district applying for funds for the 1996–97 or 1997–98 school year to implement a Class Size Reduction Program pursuant to Option One, as a part of its application for that funding, may request that the State Board of Education grant the school district a two-year authorization to have a teacher-pupil ratio that averages 1 to 20, whether or not each group of 20 pupils is enrolled in a separate class; provided that there is not less than one full-time certificated teacher hired for each group of 20 pupils for each grade level for which Option One funding is requested. The State Board of Education may grant that authorization even though the pupils may be in groups of greater than 20 pupils for a portion of the full regular schoolday. The State Board of Education shall not renew or extend the authorization granted for any schoolsite pursuant to this section for any additional period of time. This subdivision shall not be applicable to applications for funding for the 1998–99 and subsequent school years.

(b) The State Board of Education may grant an authorization to proceed under subdivision (a) if all of the following requirements are met:

(1) The schoolsite or schoolsites for which the waiver is requested is currently operating on a multitrack year-round education calendar.

(2) The school district has documented to the satisfaction of the board that special circumstances exist at the schoolsite or schoolsites, including, but not limited to, the schoolsite or schoolsites are so crowded that if any additional area at the schoolsite or schoolsites is utilized for the purposes of providing the additional facilities necessary to meet the requirements of this chapter, that utilization would result in a severe impairment of the adequacy of the education program or programs at that schoolsite or those schoolsites.

(3) The school district submits a plan demonstrating to the satisfaction of the board that it will fully meet the requirements of subparagraph (A) of paragraph (2) of subdivision (b) of Section 52122 pertaining to Option One funding for the grade levels for which the two-year authorization is requested pursuant to this section upon the expiration of that authorization.

SEC. 4. Section 52123 of the Education Code is amended to read:

52123. A school district's application for funding to implement a program pursuant to this chapter shall include the district's certification of each of the following items as a condition to receiving any apportionment under Section 52126:

(a) Certification of the number of classes in each eligible grade level selected for a class size reduction apportionment pursuant to this chapter.

(b) Certification of pupil enrollment, as of October of the previous calendar year, in each class selected for class size reduction pursuant to subdivision (a). Classes comprised of special education pupils

enrolled in special day classes on a full-time basis shall not be included in this program. School districts may not claim funding pursuant to this chapter for any pupil who is enrolled in independent study pursuant to Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28 for the full regular schoolday nor may school districts claim funding pursuant to this chapter for any pupil for any portion of the full regular day that the pupil is enrolled in independent study pursuant to that article. Charter schools may not claim funding pursuant to this chapter for any pupil who is enrolled in a program of home study for the full regular schoolday nor may charter schools claim funding for any pupil for any portion of the full regular schoolday that the pupil is enrolled in a program of home study.

(c) Certification that a certificated teacher has been hired by the school district and is providing direct instructional services to each class selected for class size reduction pursuant to this chapter and that there are not more than 20 pupils per each such class. For the purposes of this subdivision, “class” shall be defined in the same manner as provided in the regulations adopted by the Superintendent of Public Instruction prior to July 1, 1996, pursuant to Sections 41376 and 41378 (subdivision (a) of Section 15103 of Title 5 of the California Code of Regulations).

(d) Certification that the school district has a staff development program pursuant to Section 52127 and that the program has been approved by the governing board of the school district.

(e) Certification that the school district will collect and maintain any data required by the Superintendent of Public Instruction that will aid in the evaluation of the Class Size Reduction Program. The data shall include, but not be limited to, individual test scores or other records of pupil achievement. Any data collected shall be protected in a manner that will not permit the personal identification of any pupil or parent.

(f) Commencing with the 1998–99 school year and each school year thereafter, certification that each class reduced pursuant to this chapter is housed in either a separate, self-contained classroom or that the space of each such class for each grade level at that schoolsite provides a square footage per pupil enrolled in each such class that is not less than the average square footage per pupil enrolled in those grade levels at that schoolsite in the 1995–96 school year.

SEC. 5. Section 52124 of the Education Code is amended to read:

52124. (a) Any school district that implements a Class Size Reduction Program pursuant to this chapter is subject to this section.

(b) A school district may establish a program to reduce class size in kindergarten and grades 1 to 3, inclusive, and that program shall be implemented at each schoolsite according to the following priorities:

(1) If only one grade level is reduced at a schoolsite, the grade level shall be grade 1.

(2) If only two grade levels are reduced at a schoolsite, the grade levels shall be grades 1 and 2.

(3) If three grade levels are reduced at a schoolsite, then those grade levels shall be kindergarten and grades 1 and 2 or grades 1 to 3, inclusive. Priority shall be given to the reduction of class sizes in grades 1 and 2 before the class sizes of kindergarten or grade 3 are reduced.

(4) If four grade levels are reduced at a schoolsite, then those grade levels shall be kindergarten and grades 1 to 3, inclusive. First priority shall be given to the reduction of class sizes in grades 1 and 2, second priority shall be given to the reduction of class size in kindergarten and grade 3. This paragraph shall be operative only in those fiscal years for which funds are appropriated expressly for the purposes of this paragraph.

(c) It is the intent of the Legislature to continue to permit the use of combination classes of more than one grade level to the extent that school districts are otherwise permitted to use that instructional strategy. However, any school district that uses a combination class in any class for which funding is received pursuant to this chapter may not claim funding pursuant to this chapter if the total number of pupils in the combination class, regardless of grade level, for any class that exceeds 20 pupils per certificated teacher assigned to provide direct instructional services.

(d) The governing board of a school district shall certify to the Superintendent of Public Instruction that it has met the requirements of this section in implementing its Class Size Reduction Program. If a school district receives funding pursuant to this chapter but has not implemented its Class Size Reduction Program for all grades and classes for which it received funding pursuant to this chapter, the Superintendent of Public Instruction shall notify the Controller and the school district in writing and the Controller shall deduct an amount equal to the amount received by the school district under this chapter for each class that the school district failed to reduce to a class size of 20 or less pupils from the school districts next principal apportionment or apportionments of state funds to the district, other than basic aid apportionments required by Section 6 of Article IX of the California Constitution.

SEC. 6. Section 52124.5 is added to the Education Code, to read:

52124.5. (a) (1) The Controller shall include instructions, appropriate to the enforcement of subdivision (d) of Section 52124, in the audit guide required by subdivision (a) of Section 14502. These instructions shall include, but not necessarily be limited to, procedures for determining if the annual average class enrollment exceeds 20.4 for classes for which funding is provided to a school district pursuant to this chapter. The procedures to determine average class enrollment shall include criteria for employing sampling which will satisfy both of the following:



(A) The number of classes to be reviewed shall be based on auditor judgment, but the selection of classes shall be done randomly.

(B) For each class selected, the sample shall include at least 15 days randomly selected from all instructional days which occurred between the first day of instruction and April 15, inclusively, of the school year.

(2) (A) If the auditor concludes from the sample, based on his or her professional judgment, that average class size for the sampled classes is more than 20.4 when averaged over a period from the first day of instruction to April 15 of the school year, then the auditor shall conduct a more in-depth review. The in-depth review shall be either of the following:

(i) A review of all instructional days for all classes for which a district has requested funding pursuant to Section 52126.

(ii) A randomly selected sample of all classes and instructional days of sufficient size and designed in such a manner that the class size for each class, when averaged over the period from the first day of instruction to April 15, that the auditor can conclude that the average daily class size does not exceed 20 with an error of no more than 0.4 rate at 95 percent degree of confidence.

(B) The school district shall make the determination as to which of the two in-depth review methods set forth in subparagraph (A) shall be used.

(b) The results of the audits conducted for the 1996–97 and 1997–98 school years shall be reported by the Superintendent of Public Instruction to the Legislature and the Department of Finance no later than February 1 of the fiscal year subsequent to the audit.

SEC. 7. Section 52126 of the Education Code is amended to read:

52126. The amount of funding that each school district implementing a Class Size Reduction Program pursuant to this chapter is eligible to receive shall be computed as follows:

(a) If a school district applies to participate in Option One, pursuant to subparagraph (A) of paragraph (2) of subdivision (b) of Section 52122, the Superintendent of Public Instruction shall apportion to the applicant school district an amount equal to eight hundred dollars (\$800) for each pupil actually enrolled in the classes in which the school district implements the program, except that the maximum number of pupils for which a school district may claim funding for any class shall not exceed 20. The number of pupils claimed pursuant to this subdivision shall be pupils actually enrolled in classes participating in the Class Size Reduction Program and shall not be based on the average size of the classes for any grade levels for which funding is claimed.

(b) If a school district applies to participate in Option Two, pursuant to subparagraph (B) of paragraph (2) of subdivision (b) of Section 52122, the Superintendent of Public Instruction shall apportion to the applicant school district an amount equal to four

hundred dollars (\$400) per pupil actually enrolled in the classes in which the school district implements the program, except that the number of pupils in any class for which a school district may claim funding for the instructional minutes offered shall not exceed 20. The number of pupils claimed pursuant to this subdivision shall be pupils actually enrolled in classes participating in the Class Size Reduction Program and shall not be based on the average size of the classes for any grade levels for which funding is claimed.

(c) (1) If a school district applies to participate in Option One, pursuant to subparagraph (A) of paragraph (2) of subdivision (b) of Section 52122, the Superintendent of Public Instruction shall apportion to the applicant school district an amount equal to six hundred fifty dollars (\$650) for each pupil actually enrolled in the classes in which the school district implements the program and at least one of the following conditions exists:

(A) The requirements of subdivision (e) of Section 52122 have been satisfied, except for the requirements of either paragraph (1) or (2), of that subdivision, or both.

(B) The pupil enrolls in the school district after February 16, 1998.

(2) The maximum number of pupils for which a school district may claim funding for any class does not exceed 20. The number of pupils claimed pursuant to this subdivision shall be pupils actually enrolled in classes participating in the Class Size Reduction Program, and shall not be based on the average size of the classes for any grade levels for which funding is claimed.

(d) (1) If a school district applies to participate in Option 2, pursuant to subparagraph (B) of paragraph (2) of subdivision (b) of Section 52122, the Superintendent of Public Instruction shall apportion to the applicant district an amount equal to three hundred twenty-five dollars (\$325) for each pupil actually enrolled in the classes in which the school district implements the program and at least one of the following conditions exists:

(A) The requirements of subdivision (e) of Section 52122 have been satisfied, except for the requirements of either paragraph (1) or (2) of that subdivision, or both.

(B) The pupil enrolls in the school district after February 16, 1998.

(2) The maximum number of pupils for which a school district may claim funding for any class shall not exceed 20. The number of pupils claimed pursuant to this subdivision shall be pupils actually enrolled in classes participating in the Class Size Reduction Program, and shall not be based on the average size of the classes for any grade levels for which funding is claimed.

(e) The per pupil amount set forth in subdivisions (a) and (b) shall be increased annually for inflation by the percentage change determined pursuant to subdivision (b) of Section 42238.1.

(f) Except for the advance apportionment, the Superintendent of Public Instruction shall apportion funds to a school district only after

certification that its Class Size Reduction Program has been implemented for that fiscal year.

(g) The Superintendent of Public Instruction shall apportion funds for this program in the following manner:

(1) An advance apportionment shall be made following passage of the annual Budget Act. This apportionment shall be provided to all school districts that participated in the program in the prior fiscal year, and shall be limited to 25 percent of the amount computed by multiplying the appropriate per pupil stipends times the actual enrollment in each participating class in the prior fiscal year, as reported by the district pursuant to subdivision (d) of Section 52124.

(2) Each year an apportionment to all applicants shall be made following receipt of applications submitted pursuant to Section 52123, adjusted as necessary by the amount received pursuant to paragraph (1). If a school district that participated in this program in the prior fiscal year fails to submit an application, all funds apportioned to that school district pursuant to paragraph (1) shall be deducted from the district's next monthly principal apportionment payment.

(3) A final adjustment to the amounts paid pursuant to paragraph (2) shall be made following receipt of the actual enrollment in each participating class, to be reported by each school district pursuant to subdivision (d) of Section 52124.

(h) Irrespective of the amount that a school district receives pursuant to subdivision (a) on the basis of the application it makes under Section 52123, that district shall not retain any funds it receives for any class that does not actually meet all of the requirements of the Class Size Reduction Program.

(i) It is the intent of the Legislature that the total statewide amount computed for the purposes of this chapter pursuant to this section, commencing with the 1997–98 fiscal year, be appropriated to the Superintendent of Public Instruction in the annual Budget Act.

SEC. 8. It is the intent of the Legislature that both of the following occur:

(a) The first priority for any unused funds appropriated pursuant to Chapter 6.10 (commencing with Section 52120) of Part 28 of the Education Code for the 1997–98 fiscal year is that the funds be made available, on a one-time basis, to assist eligible school districts in implementing their approved comprehensive plans to mitigate the facilities impact of class size reduction, as specified in Section 52122.7, or school districts that fully implemented three grade levels of class size reduction in the 1996–97 fiscal year, so that these school districts may be eligible to receive an amount for facilities, of up to forty thousand dollars (\$40,000) for each class established for the purposes of expanding the class size reduction program in the 1997–98 fiscal year, beyond the numbers of new classes established in the 1996–97 fiscal year.

(b) Development of long-term solutions to the overall facilities needs for the Class Size Reduction Program shall be addressed in the next statewide general obligation bond for school facilities, with particular attention to the crisis facing impacted schools that want to participate in Option One of the Class Size Reduction Program, but are precluded from doing so because of physical constraints at the schoolsite level.

SEC. 9. Notwithstanding any other provision of law, no state agency shall reduce the apportionments made to a school district for either the Class Size Reduction Program or the Class Size Reduction Facilities Program during the 1996–97 or 1997–98 school year, if the only reason for the reduction is that an audit included a finding that the district received Class Size Reduction Program incentive funding for one or more classes having an annual average daily class size (as defined in the State Controller’s Audit Guide for K-12 Schools for 1996–97, Audit Procedure Number 5, page 102, or the successor procedure included in the State Controller’s Audit Guide for K-12 Schools for 1997–98) for the period of time that the class was reported by the district as eligible for Class Size Reduction Program incentive funding, that was in excess of 20 (rounded using the $\frac{4}{5}$ convention). For purposes of this subdivision, “class” shall be defined in the same manner as provided in the regulations adopted by the Superintendent of Public Instruction prior to July 1, 1996, pursuant to Sections 41376 and 41378 (subdivision (a) of Section 15103 of Title 5 of the California Code of Regulations).

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the Class Size Reduction Program to operate effectively during the 1997–98 school year, it is necessary that this act take effect immediately.

